APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/859,661	05/17/2001	Stuart A. Fraser		3933

1473   7590   12/18/2002

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EXAMINER
MYHRE, JAMES W

ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

-- *The MAILING DATE f this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ___ *3* ___ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Sep 9, 2002* _____ .

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-5, 7-23, and 31-33* _____ is/are pending in the application.

    4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-5, 7-23, and 31-33* _____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some* c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    *See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

    a) ☐ The translation of the foreign language provisional application has been received.

15) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). *4&5*

4) ☐ Interview Summary (PTO-413) Paper No(s). _____

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other:

DETAILED ACTION

Reissue Applications

1.   This application is a Re-Issue Application of prior Application No. 08/766,733, Patent No. 5,905,974. Prosecution of this application was suspended by the Examiner on November 14, 2001 while the parent patent was in litigation. The Examiner has been notified by the Applicant that the litigation has been concluded, and has, therefore, removed the suspension. An action on this application follows.

Two Preliminary amendments filed on May 17, 2002 and September 9, 2002 canceled Claims 6 and 24-30, amended Claims 1, 4, 5, and 7, and added new Claims 31-33. Therefore, the currently pending claims are 1-5, 7-23, and 31-33.

Claim Objections

2.   Claim 21, a system claim, is dependent on Claim 14, also a system claim. However, the Examiner notes that independent Claim 16 is another system claim which lies in between Claim 14 and Claim 21. The Examiner believes that this may be a typographical error and that the Applicant may have desired Claim 21 to be dependent upon Claim 16, but will consider the claims with its present dependency.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4.   Claims 1-5, 7-18 and 20-23 are rejected under 35 U.S.C. 102(b) as being separately

anticipated by McCausland et al (5,243,331) and Kramer (5,038,284). In order to provide a more

concise action on this application, the Examiner will cite features of the claim followed by citation

of the appropriate passages from each of the two references. However, the Applicant should

consider each reference as a separate and distinct rejection under 35 U.S.C. 102(b).

Claim 1: McCausland and Kramer each disclose a computer trading system, comprising:

a. Workstations with displays (McCausland, Figure 2)(Kramer, Figure 3a and col

11, lines 9-12);

b. Central server programmed to conduct trading sequences responsive to trade

commands received from the workstation users (McCausland, Figure 1; col 22, lines 43-63; and

col 24, lines 7-67)(Kramer, col 5, lines 23-31 and col 9, lines 42-65); and

c. A Second Look state (McCausland, col 25, lines 8-30)(Kramer, col 12, lines

51-61).

While neither reference uses the terminology "trade states" to describe various parts of the computer trading system operation, McCausland discusses that the system can monitor the scheduling of operations and can "change the operational state of the market memory program **90** according to a predetermined time schedule" (col 10, lines 45-51) and during a fatal error recovery will "re-build the exact state of the market prior to the fatal error" (col 10, lines 30-44). McCausland further discloses using a menu program which will display to the user a list of choices, "and the user is prompted for selection, which will be the next programs to run" (col 11, lines 64-68). McCausland also discloses that at least some of the data being displayed changes to a default condition upon the user pressing the Bid, Offer, Hit, or Take keys (col 23, lines 1-5) with the defaults being unique and different for each of these keys. Kramer discloses that in response to menu selections (i.e. pressing the Hit key, the Bid key, etc.) certain keys will "light up to indicate which are appropriate answers to menu questions" (col 4, lines 37-40 and Claim 7). Therefore, both references disclose "defining the ability of various participants to participate in said trading activities" which is the Applicant's definition of trade specific states in Claim 1.

Claim 2: McCausland and Kramer each disclose a computer trading system and in Claim 1 above, and further disclose that the system is run using a stored program (McCausland, col 8, lines 25-57)(Kramer, col 10, line 30 - col 11, line 30).

Claim 3: McCausland and Kramer each disclose a computer trading system as in Claim 1 above, and further disclose the user entering commands such as bids, offer, hits, or lifts (McCausland, col 22, lines 64-68)(Kramer, col 12, lines 3-37).

Claims 4, 5, and 7: <u>McCausland</u> and <u>Kramer</u> each disclose a computer trading system as in Claim 1 above, and further disclose the trading states comprising Workup, Workdown, and When states as defined in the table in Figure 11 (<u>McCausland</u>, col 23, lines 6-68)(<u>Kramer</u>, Figure 2 and col 6, lines 17-39 and col 12, lines 51-61).

Claims 8: <u>McCausland</u> and <u>Kramer</u> each disclose a computer trading system as in Claim 1 above, and further disclose display a bid side and an offer side or a market (<u>McCausland</u>, col 18, lines 49-57 and col 20, lines 25-26)(<u>Kramer</u>, Figure 3a and col 12, lines 10-12).

Claim 9: <u>McCausland</u> and <u>Kramer</u> each disclose a computer trading system as in Claim 8 and further disclose displaying information as to the size of uncleared (unreconciled) bids and offers (<u>McCausland</u>, col 18, lines 49-57)(<u>Kramer</u>, col 12, lines 43-46).

Claims 10-12: <u>McCausland</u> and <u>Kramer</u> each disclose a computer trading system as in Claim 8 above, and further disclose display a list (queue) of bids and offers showing the participants, time and size of entry, and price (<u>McCausland</u>, Figures 6-9 and col 18, line 34 - col 22, line 38)(<u>Kramer</u>, Figure 3a; col 12, lines 3-13; and col 20, lines 43-65).

Claim 13: <u>McCausland</u> and <u>Kramer</u> each disclose a computer trading system as in Claim 12 above, and further disclose displaying information regarding the hits or lifts by the participant (<u>McCausland</u>, col 20, lines 25-26)(<u>Kramer</u>, Figure 3a and col 12, lines 10-12).

Claim 14: <u>McCausland</u> and <u>Kramer</u> each disclose a computer trading system as in Claim 1 above, and further disclose the item being a commodity, security, index, or futures contract (<u>McCausland</u>, col 1, lines 30-33 and col 4, lines 8-14)(<u>Kramer</u>, col 1, lines 8-52).

Claim 15: McCausland and Kramer each disclose a computer trading system as in Claim 1 above, and further disclose the bids and offers pertain to a futures contract (McCausland, col 14, lines 19-20)(Kramer, col 1, lines 8-52).

Claim 16: McCausland and Kramer each disclose a computer trading system, comprising:

a. Data processor for providing a trading protocol (McCausland, col 10, lines 45-51)(Kramer, col 9, lines 42-65);

b. Custom designed keypad with specially assigned keys (McCausland, Figure 3 and col 6, line 42 - col 8, line 23)(Kramer, Figure 3a and col 16, table); and

c. Display for presenting pending bids and offers (McCausland, col 24, lines 2-5)(Kramer, Figure 3a and col 11, lines 9-12).

Claim 17: McCausland and Kramer each disclose a computer trading system as in Claim 16 above and further disclose a Cancel key (McCausland, "reject" col 7, lines 43-47 and col 23, lines 27-29)(Kramer, "NT", col 16, table).

Claim 18: McCausland and Kramer each disclose a computer trading system as in Claim 16 above, and further disclose displaying the price and size of the bids and offers (McCausland, col 18, lines 49-57 and col 20, lines 25-26)(Kramer, Figure 3a and col 12, lines 10-12).

Claim 20: McCausland and Kramer each disclose a computer trading system as in Claim 18 above, and further disclose moving to the When state (waiting) when a non-priority participant enters a hit or lift (entry while unreconciled entries are outstanding)(McCausland, col 9, lines 48-55; col 19, lines 28-38; and col 22, lines 41-62)(Kramer, col 12, lines 51-61).

Claim 21: McCausland and Kramer each disclose a computer trading system as in Claim

14 above, and further disclose presenting (displaying) information based on the current trading

state (i.e. bid information is displayed while in the bid state, offer information is displayed while in

the offer state, etc.)(McCausland, Figures 6-9 and col 7, lines 7-38)(Kramer, Figure 3a and col

25, lines 9-16).

Claim 22: McCausland and Kramer each disclose a computer trading system as in Claim

16 above, and further disclose the item being a commodity, security, index, or futures contract

(McCausland, col 1, lines 30-33 and col 4, lines 8-14)(Kramer, col 1, lines 8-52).

Claim 23: McCausland and Kramer each disclose a computer trading system as in Claim

16 above, and further disclose the bids and offers pertain to a futures contract (McCausland, col

14, lines 19-20)(Kramer, col 1, lines 8-52).

5.   Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by McCausland et al

(5,243,331).

Claim 19: McCausland discloses a computer trading system as in Claim 16 above, and

further discloses terminating the bid/offer state upon entry of a hit or lift (col 24, lines 64-67).

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

7.   Claims 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCausland

et al (5,243,331) and Kramer (5,038,284). In order to provide a more concise action on this

application, the Examiner will cite features of the claim followed by citation of the appropriate

passages from each of the two references. However, the Applicant should consider each

reference as a separate and distinct rejection under 35 U.S.C. 103(a).

        Claims 31-33: McCausland and Kramer each disclose a computer trading system,

comprising:

        a. Workstations with displays (McCausland, Figure 2)(Kramer, Figure 3a and col

11, lines 9-12);

        b. Central server programmed to conduct trading sequences responsive to trade

commands received from the workstation users (McCausland, Figure 1; col 22, lines 43-63; and

col 24, lines 7-67)(Kramer, col 5, lines 23-31 and col 9, lines 42-65); and

        c. A Second Look state (McCausland, col 25, lines 8-30)(Kramer, col 12, lines

51-61).

While neither reference uses the terminology "trade states" to describe various parts of the computer trading system operation, McCausland discusses that the system can monitor the scheduling of operations and can "change the operational state of the market memory program **90** according to a predetermined time schedule" (col 10, lines 45-51) and during a fatal error recovery will "re-build the exact state of the market prior to the fatal error" (col 10, lines 30-44). McCausland further discloses using a menu program which will display to the user a list of choices, "and the user is prompted for selection, which will be the next programs to run" (col 11, lines 64-68). McCausland also discloses that at least some of the data being displayed changes to a default condition upon the user pressing the Bid, Offer, Hit, or Take keys (col 23, lines 1-5) with the defaults being unique and different for each of these keys. Kramer discloses that in response to menu selections (i.e. pressing the Hit key, the Bid key, etc.) certain keys will "light up to indicate which are appropriate answers to menu questions" (col 4, lines 37-40 and Claim 7). Therefore, both references disclose "defining the ability of various participants to participate in said trading activities" which is the Applicant's definition of trade specific states in Claim 1.

While neither reference explicitly discloses enabling the user to exclude or include third party participants from trading with the first participant when completing a trade with the second participant, Official Notice is taken that it is old and well known in the negotiation and auction arts that third party participants can be allowed to participate (included) or prevented from participating (excluded) during the negotiation and consummation of a transaction between the first and second parties. For example, in the normal Dutch (reverse) auction in which a first party

is offering a quantity of a product for sale, when a second party enters a bid at a certain price, the

auction is stopped while the second party is queried as to the desired quantity of the items.

During this time, none of the third parties may enter bids nor participate in the negotiation of the

quantity, i.e. they are excluded. However, if the second party does not purchase all of the items,

third parties may be allowed to buy the remaining items at the same price as the second party, i.e.

they are included.   McCausland asks the user to Confirm or Reject the second party's bid/offer

(col 20, lines 58-61) and discusses the differences between a "single-order" trader and a "multi-

order" trader (col 22, lines 41-63) and how partial hits or offers are handled (col 24, line 64 - col

25, line 3). Kramer discusses at length how two traders resolve conflicts with unreconciled trades

through one-on-one negotiation (col 12, lines 38-61). Therefore, it would have been obvious to

one having ordinary skill in the art at the time the invention was made to allow the user (first

party) to include or exclude other parties when consummating a trade with the second party. One

would have been motivated to allow the user to exclude others in order to prevent a barrage of

conflicting bids/offers from arriving while the user is attempting to complete the transaction with

the second party.

8.   Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer

(5,038,284) in view of McCausland et al (5,243,331).

        Claim 19: Kramer discloses a computer trading system as in Claim 16 above, but does not

explicitly disclose terminating the bid/offer state upon entry of a hit or lift. However, McCausland

discloses a similar computer trading system in which the bid/offer state is terminated upon entry of

a hit or a lift (col 24, lines 64-67). Therefore, it would have been obvious to terminate the

bid/offer state in <u>Kramer</u> when a hit or lift was entered. One would have been motivated to

terminate the bid/offer state in order to allow the trader to process other actions after the pending

bid/offer had been fulfilled by the hit or lift.

Conclusion

9.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

A. <u>Adams et al</u> (3,573,747) discloses a computer trading system using a customized

keypad.

B. <u>Cleveland et al</u> (3,976,840) discloses a computer trading system using a customized

keypad attached to a telephone.

C. <u>Gutterman et al</u> (5,297,031) discloses a computer trading system which allows the user

to cancel transaction using a customized keypad display on a touchscreen.

D. <u>Trojan et al</u> (5,297,032) discloses a computer trading system which combines seven

applications (i.e. trading states) and presents the user with numerous, modifiable displays.

E. <u>Lawrence</u> (5,915,209) discloses a computer trading system which moves between

various trading states and includes a Cancel button to cancel transactions during a Second Look

state.

F. Togher et al (6,014,627) discloses a computer trading system which uses a small customized keypad as an entry device.

G. Belzberg (6,134,535) discloses a computer trading system which display various screens depending upon the current trading state.

H. Daughtery, III (6,263,321) discloses a computer trading system for processing transaction of stocks, bonds, futures, etc.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exr. James W. Myhre whose telephone number is (703) 308-7843. The examiner can normally be reached on weekdays from 6:30 a.m. to 3:30 p.m.
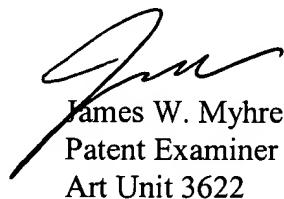
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, can be reached on (703) 305-8469. The fax phone number for Formal or Official faxes to Technology Center 3600 is (703) 872-9326. Draft or Informal faxes may be submitted to (703) 872-9327 or directly to the examiner at (703) 746-5544.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (703) 308-1113.

/JWM
December 12, 2002

James W. Myhre
Patent Examiner
Art Unit 3622